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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,634

Applicant(s)

NELSON et al.

Examiner

KURT ROWAN

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9, 11-15, 17, 20, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Larkin.

The patent to Larkin shows an insect trap having a means for mounting the trap on a planar mounting surface as shown in Fig. 3. Larkin shows at least one source of insect attracting light 28, at least one insect immobilization surface 24 and a housing 12 configured to cooperate with the source of insect attracting light such that light from the source is directed into at least three insect attracting light patterns separated by about 120 degrees formed on the planar mounting surface such as shown in Fig. 4. The light attracting pattern can be also be considered to be in four patterns separated at about 90 degrees. In reference to claim 20, Larkin shows three opening, one at the top of the housing and one at each side. In reference to claim 22, Larkin show the light patterns in fig. 4 which are non-overlapping. In reference to claim 23, Larkin shows the trap shape as a regular geometric shape.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 10, 16, 18-19, 21, 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larkin.

The patent to Larkin shows an insect trap as discussed above. Larkin discloses a fluorescent light, but it would have been obvious to employ a ultraviolet light since ultraviolet lights are known to attract insects and merely one light would be substituted for another. The function of the lights is the same. In reference to claim 10, Larkin mounts the adhesive surface to the housing but it would have been obvious to mount the adhesive to the planar mounting surface near the housing since the function is the same. In reference to claims 16, 18, Larkin shows a flat reflecting surface, but it would have been obvious to employ a curved surface or an open parallelepiped housing since the function is the same and no stated problem is solved. In reference to claim 18, Larkin shows a housing from a plurality of pieces but it would have been obvious to employ a one piece housing since the function is the same and no stated problem. Also, see *In re Larson et al.*, 144 USPQ 347. In reference to claim 21, Larkin shows three openings but it would have been obvious to employ four openings for multiplied effect. See *In re Harza*, 124 USPQ 378. In

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reference to claim 24, Larkin discloses one light source, but it would have been obvious to employ three lights for multiplied effect with each source creating a separate light pattern. See the citation to *In re Harza*, above. In reference to claim 25, Larkin does not disclose an ultraviolet light, but the Background of the Invention on page 2 states that ultraviolet sources are known in Prior Art insect traps. Hence it would have been obvious to employ a UV light. In reference to claim 27, Larkin shows a rectangular housing with a rectangular plate, but it would have been obvious to employ other shapes for the housing and plate such as triangular since the function is the same and no stated problem is solved.

Allowable Subject Matter

5. Claim 28 is allowed.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Morisset, Williams, Olive, White, McEwen, Cornell, and Gardner show other insect traps using patterns of light.

7.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

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The examiner can normally be reached on Monday-Thursday
from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this
application or proceeding is assigned is (703) 306-4195 or (703)
305-3597.

Any inquiry of a general nature or relating to the status of
this application or proceeding should be directed to the
receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read "Kurt Rowan", with a checkmark-like flourish at the end.

KURT ROWAN

PRIMARY EXAMINER

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July 15, 2002